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6-19-1874

Letter from the Secretary of the Interior,  
transmitting, in compliance with the act of July 22,  
1854, a report of the Surveyor-General of New  
Mexico on land-grant to Francisco Montes Vigil,  
being private land-claim No. 91

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H.R. Exec. Doc. No. 280, 43d Cong., 1st Sess. (1874)

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FRANCISCO MONTES VIGIL LAND-GRANT, NO. 91, NEW MEXICO.

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L E T T E R

FROM

THE SECRETARY OF THE INTERIOR,

TRANSMITTING,

*In compliance with the act of July 22, 1854, a report of the surveyor-general of New Mexico on land-grant to Francisco Montes Vigil, being private land-claim No. 91.*

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JUNE 19, 1874.—Referred to the Committee on Private Land-Claims and ordered to be printed.

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DEPARTMENT OF THE INTERIOR,  
Washington, D. C., June 19, 1874.

SIR: Pursuant to the eighth section of the act approved 22d July, 1854, (10 Stat., 308,) I have the honor to submit, for the consideration of Congress, the report of the surveyor-general of New Mexico on "land-grant to Francisco Montes Vigil, being private land-claim reported as No. 91, for the town of Alameda tract, in Bernalillo County, New Mexico."

Very respectfully, your obedient servant,

C. DELANO,  
Secretary.

Hon. JAMES G. BLAINE,  
Speaker House of Representatives.

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*Transcript of land-grant to Francisco Montes Vigil, being private land-claim reported as No. 91, for the town of Alameda tract, in Bernalillo County, New Mexico. Date of grant, January 2, 1710. Reported by the United States surveyor-general June 3, 1874.*

[Present claimant's petition.]

To the Surveyor-General of New Mexico :

Your petitioner, Antonio Lerma, for himself, and as the legal representative for the inhabitants of the town of Alameda and its surrounding settlers, and for the inhabitants of the town of Los Corrales and its surrounding settlers, being towns and settlements within the limits of the Alameda grant, and situated upon the banks of the Rio Grande, in the county of Bernalillo, in the Territory of New Mexico, respectfully represents that, in the year 1710, one Francisco Montez Vigil petitioned to Admiral Joseph Chacon Medina Salazar y Villasiñor, knight of the order of Santiago, Marquiz de la Peñuela, governor and captain-general of this

Province of New Mexico, under the sovereignty of the King of Spain, for a grant of land, then and now known as the Alameda tract, situated about seven miles north of the town of Albuquerque, in said county and Territory, setting forth that he had participated in the great hardship which were experienced in the conquest and pacification of this said province, as also having participated in all the battles fought therein; and that said tract was vacant land, uncultivated and unsettled; that, on the 2d day of January, in the year 1710, said governor and captain-general made and executed the following decree and grant in favor of said petitioner: "The said petition being by me examined, I consider the same before me, in so far as it might legally come, and in view of the justice of the applicant's petition and the veracity of his statement, and in remuneration of his services, and for the accommodation of his family, I do, in the name of His Majesty, make to him the grant he asks of said tract of land, so that, as his own property, he may settle and enjoy the same for himself and his heirs; and this decree shall be to him a special title, and the chief alcalde of the town of San Felipe de Albuquerque will place him in possession. And that it may so appear, I provided, commanded, and signed, with my secretary of state and war," &c.

That in obedience to said decree and order, Captain Martin Hurtado, chief alcalde, and war-captain of said town of San Felipe de Albuquerque, did, on the 27th day of January, in the year 1710, proceed to execute to Corporal Francisco Montes Vigil, the royal possession of the Alameda tract, in the name of His Majesty, and in strict accord with the laws and ordinances of the Spanish government, observing the customary ceremonies and designating boundaries, placing landmarks, which boundaries are, on the north the ruin of an old pueblo, which of the two that there are is the more distant one from said Alameda tract, and on the south a small hill, which is the boundary of Luis Garcia; on the east the Rio del Norte, and on the west, prairies and hills for entrances and exits.

That said grant and lands have never been surveyed, and its contents cannot be accurately stated, but its width from north to south is believed to be about four Spanish leagues, and its length from east to west about seven Spanish leagues, more or less; that the Rio del Norte, at the date of executing said grant in 1710, flowed its current against the banks and foot-hills east of where the channel of said river now flows; that the evidence of its having flowed there exists upon the surface of the soil, and it is also evidenced as having flowed there in 1748 by the ancient grant documents to the pueblo of Zandia, which documents state that said Rio del Norte at that date flowed within two hundred and forty varas west of said pueblo town, whereas it now flows about one-half league or more westward thereof, which pueblo grant lies at the northern and eastern extremity of said Alameda grant, and that all the lands, and the town of Alameda, and its surrounding settlements now situated upon the eastern bank of said Rio del Norte, were at the date of the execution of said grant on the west side thereof; that the valley along said stream, in numerous instances, shows unmistakable evidence of its former bed, wherein to day it flows many miles distant east or west therefrom; that important changes in its bed have occurred in some instances since the date of the treaty of Guadalupe Hidalgo of February 2, 1848. In Doña Ana County the town of La Mesilla was built on the western side of that stream, a mile or more distant from it, but during the last ten years its bed has changed, and its current now flows more than a mile westward of that town. Another recent instance of its change is the ancient Spanish-built town of Sabin, in Valencia County, which had for a century or more stood on

the west side of said stream a mile or more distant therefrom, whereas, during the past six years, the river-bed has changed and washed away the entire town, and the ruins of the large church to-day seen looming up from the waters in the middle of said stream is the only evidence to be seen of that once populous and flourishing metropolis; and the destruction of the ancient town of Atrisco, fronting Albuquerque and the northern portion of Los Ranches, in Bernalillo County, the latter just below and adjoining said Alameda grant, are other evidences of recent changes in the bed of said stream; and, indeed, at the town of Alameda itself, and for several miles above it, within the limits of said Alameda grant, the bed of said stream, during the last five years, has moved eastward a mile or more, and if not checked by some artificial means will soon reach its former channel of 1710, against the foot-hills on the east. And thus could numerous other instances of the changes in the bed of said stream be mentioned, and which facts can be substantiated by the many thousands of settlers residing upon either bank of the same, and which facts have doubtless been brought to your honor's notice and observation in your travels along the same, from this place to El Paso, in Texas; and adopting the old and well-established principle of law, that in the changes of the bed of a stream that the river gives and takes land, your petitioners claim that the eastern boundary of said grant is to the immediate foot-hills east from where said Rio del Norte now flows, and to the most eastern extremity of its waters, where said Alameda grant was made in 1710. That the western boundary of said Alameda grant is and has always been known as the Ceja, or main dividing ridge between the waters of the Rio Grande and the Rio Buerco on the west, where the first main hills westward from the Rio del Norte exist, and has been held, claimed, used, occupied, owned, and grazed upon by the settlers of said towns and vicinity, as their western boundary-line of said Alameda grant, and that both the eastern and western boundaries thereof, as is herein designated, has been recognized, respected, and protected to said settlers by the former Spanish and Mexican governments during their sovereignty over this province, and said recognition is evidenced in the wills and conveyances, executed from time to time, from one settler to another; that said grant embraces as many as fifteen hundred inhabitants, and that said towns and said number of inhabitants were in existence, and the inhabitants were residing upon, owned, and cultivated, and grazed their herds upon said grant at the date of the treaty of Guadalupe Hidalgo, and said towns had existed, and the inhabitants and their ancestors had resided thereon, possessed, cultivated, and grazed upon said lands for more than one hundred years prior to the date of said treaty, and that the same has been in continuous and uninterrupted possession and enjoyment of said grantee, and his heirs and successors, since the year 1710.

That the same was made by the proper authority and in strict compliance with the Spanish laws in force in this province at that time, and its boundaries and limits have been maintained and protected in strict compliance with said laws and ordinances; that valuable military service, rendered by the grantee in His Majesty's army, established a meritorious claim upon the Spanish government, and was one of the principal causes which influenced the governor and captain-general to extend to him the said grant. The old title-papers contained in file No. 1029, now in the custody of your office, and which were taken from the ancient Spanish archive-files of this province, are the original titles to the original grant in this case, a correct translated copy of which accompanies this petition, which original title-papers have been handed down from

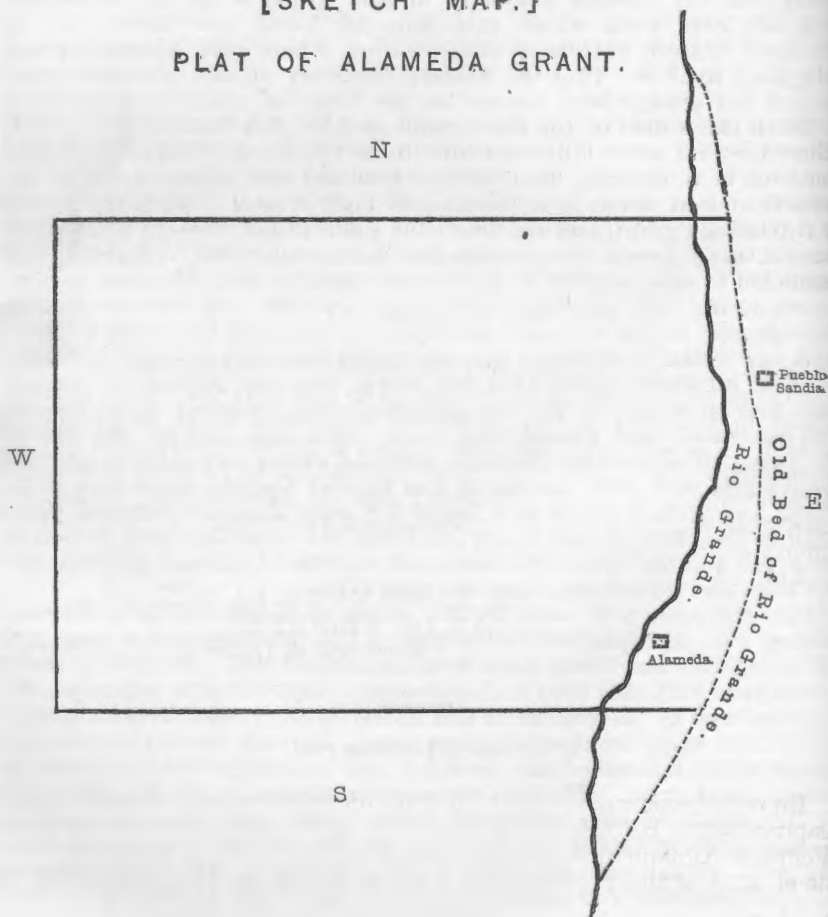
one generation to another, and were kept in the public archives, in the official custody of the former Spanish and Mexican governments, until the United States troops invaded and took possession of this Territory, in 1846, when they were transferred to the custody of the United States authorities, in whose custody they have remained ever since; and your petitioners ask that they be coupled with this petition and made a part of this claim. That the official signatures subscribed thereon can be verified as genuine by a comparison of the same with numerous ancient official documents signed by the same parties, in their official capacity, about the year 1710, and which were also taken from the ancient Spanish archive-files now in the custody of your office. That the map or sketch accompanying this petition shows as near the relative position and location of said grant as can be ascertained at this time without an actual survey of the same; and your petitioners respectfully ask your approval of the same as a perfect and absolute title and a bona-fide grant for all the lands within the limits and boundaries herein set forth. And your petitioners will ever pray, &c.

JOHN GWYN, JR.,  
Attorney for Claimants.

SANTA FE, N. MEX., March 1, 1872.

[SKETCH MAP.]

PLAT OF ALAMEDA GRANT.



[Muniments of title.]

*Señor Gobernador y Capitan General :*

El cavo. de esquadra Francisco Montes Vigil, vecino de este reino y residente en esta villa de Santa Fé, ante V. S. paresco en la mejor via y forma que, aya lugar en derecho, y al mio convenga y digo, que habiendo entrado á este dicho reino, por su vecino en la reduta que hizo de familias de la ciudad de Nuestra Señora de los Zacatecas, mi patria, el general Don Juan Paez Huntado, me é mantenido en él sin ningunas conveniencias, y antes si experimentado los grande trabajos, que son publicos se padecieron en la pasificacion deste dicho reino, asistiendo en todas las funciones de su guerra, y hallandome oy con un principio de veses para alimentar mi familia, que escrecido necesito, que V. S. me haga merced, en nombre de su magestad, del sitio de la Alameda, por fermo y despoblado. Pido y aguardo de la grandesa de V. S. y su cristiano selo distribuya su justicia á mi pedimiento y justa representacion, por tanto a V. S. pido y suplico sá sirva de hacer mi dicha merced de dicho sitio mandando se me de la real posesion de él, que en ello recibire bien y merced, y juro á Dios Nuestro Señor y la señal de la Santa Cruz no su esta mi peticion de malicia, el real auxilio en V. S. implore y en lo necesario, &c.

FRANCISCO MONTES VIGIL.

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*Presentacion.*

En la villa de Santa Fé, cavecera de este reino y provincias de la Nueva Mejico, en dos dias del mes de Enero mil setecientos y dies años, ante mi, el almirante Don Joseph Chacon Medina Salazar y Villaseñor, cavallero de el orden de Santiago, marques de la Peñuela, governador y capitan general de este dicho reino y sus provincias, y castellano de sus fuersas y presidios por su magestad, y por mi vista la hube por presentada:

*Auto.*

Su gto. ha lugar en derecho y atendiendo á lo justo de supedimento y verdad de su relacion en remuneracion de sus servicios y para la comodidad de su familia, le hajo la merced, en nombre de su magestad, que pide de dicho sitio para que como propia lo pueblo y gase para si y sus herederos y este decreto le sirva de especial título y lede la posesion, el alcalde mayor de la villa de San Felipe de Albuquerque, y para que conste así lo probey, mande, y firme con mi secretario de gobernacion y guerra en dicho dia ut supra.

Ante mi,

EL MARQUES DE LA PEÑUELA.

JUAN DE URIBARRI,

*Secretario de Gobernacion y Guerra.*

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*Auto de posesion real.*

En veinte y siete dias del mes de Enero de mil setecientos dias años, yo, el capitan Martin Hurtado, alcalde mayor y capitan á guerra de la villa de San Felipe de Albuquerque, y su jurisdiccion en cumplimiento y obedecimiento de él, ante arriba probeido por el señor almirante D. Joseph Chacon,



marques de la Peñuela, gobernador y capitan-general, pasé á darle posesion real al cabo. Francisco Montes Vigil, del sitio de la Alameda, y se lo dé, en nombre de su magestad, que Dios guarde, asiendo las seremonias acostumbrados y señalando linderos y poniendo mojoneras y corren sus linderos por la parte del norte con una runia de un pueblo viejo que de dos que hay esta mas retirado de dicho sitio de la Alameda, y por el sur con una lomita chiquita que es lindero de Luis Garcia, por el oriente con el rio del Norte, y por el peniente con llanos y lomas que le sirvan de entrados y solidos, y para que coste lo firme con dos testigos de mi asistencia que le fueron, Joseph de Quintana y Luis Garcia el uno supo firmar y á su ruego lo firmo el otro testigo en dicho dia mes y año fecha ut supra.

Testigo de asistencia,

JOSEPH DE QUINTANA.

A ruego de Luis Garcia,

JOSEPH DE QUINTANA.

Agtuando como juez receptor,

MARTIN HURTADO.

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[Translation of muniments.]

*To His Excellency the Governor and Captain-General :*

I, Francisco Montes Vigil, squadron corporal, citizen of this province and resident of this town of Santa Fé, appear before your excellency in due form and state, that having come to this said province to settle therein, among the collection of families made in the city of our lady of Zacatacas, my native place, by General Juan Paez Hurtado, I have supported myself therein without any means, and have participated in the great hardships which, as is well known, were experienced in pacification of this said province, having participated in all the battles of the war, and finding myself now with a start in cattle, for the support of my family, which is a large one, it is important to me that your excellency make me a grant, in the name of His Majesty, of the Alameda tract of land, it being uncultivated and unsettled. I ask, and expect from your high position and your Christian disposition, that you will do justice as to my prayer and petition, wherefore I ask and pray your excellency to be pleased to make me the said grant to the tract mentioned, commanding that the royal possession be given me thereof, whereby I will receive benefit and favor, and I declare before God our Father, and the sign of the Holy Cross, that this my petition is not made in dissimulation ; that I beg through your excellency the royal favor, and whatever be necessary, &c.

FRANCISCO MONTES VIGIL.

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*Preamble.*

At the town of Santa Fé, capital of this kingdom and provinces of New Mexico, on the 2d of the month of January, in the year 1710, before me, Admiral Joseph Chacon Medina Salazar y Villeseñor, knight of the order of Santiago, Marquis de la Peñuela, governor and captain-general of this said kingdom and its provinces, and castellan of the forces and garrisons of His Majesty therein.

*Decree.*

The said petition being by me examined, I considered the same before me, in so far as it might legally come; and in view of the justice of the applicant's petition, and the veracity of his statement, and in remuneration of his services, and for the accommodation of his family, I do, in the name of His Majesty, make to him the grant he asks of said tract of land, so that, as his own property, he may settle and enjoy the same for himself and his heirs; and this decree shall be to him a special title, and the chief alcalde of the town of San Felipe de Albuquerque will place him in possession. And that it may so appear, I provided, commanded, and signed, with my secretary of state and war, the said day above mentioned.

## THE MARQUIS DE LA PEÑUELA.

Before me, JUAN DE URIBARRI,  
*Secretary of State and War.*

*Decree of royal possession.*

On the 27th day of the month of January, in the year 1710, I, Captain Martin Hurtado, chief alcalde and war-captain of the town of San Felipe de Albuquerque and the jurisdiction thereof, in pursuance of and obedience to the decree above written, made by his excellency Admiral Joseph Chacon Marquis de la Peñuela, governor and captain-general, proceeded to execute to Corporal Francisco Montes Vigil the royal possession of the Alameda tract, and I did so in the name of His Majesty, (may God preserve him!) observing the customary ceremonies, and designating boundaries, placing landmarks, and the boundaries are, on the north a ruin of an old pueblo, which, of two that there are, is the more distant one from said Alameda tract, and on the south a small hill, which is the boundary of Luis Garcia; on the east the Rio del Norte, and on the west prairies and hills for entrances and exits.

And that it may so appear, I signed this with two witnesses in my attendance, who were Joseph de Quintana and Luis Garcia, one of whom knew how to sign, and he, at the request of the other witness, signed also for him, on the said day, month, and year, the date above.

Attending witnesses:

At the request of Luis Garcia:

JOSEPH DE QUINTANA.

Officiating justice,

JOSEPH DE QUINTANA.

MARTIN HURTADO.

TERRITORY OF NEW MEXICO, } ss:  
COUNTY OF SANTA FE.

I, John Gwyn, jr., upon my oath state that the foregoing is a true and correct translation from the original in the Spanish language, to the best of my knowledge and belief.

JOHN GWYN, JR.

Subscribed and sworn to before me this May 23, 1874.

JAMES K. PROUDFIT,  
*Surveyor-General.*



SURVEYOR-GENERAL'S OFFICE,  
TRANSLATOR'S DEPARTMENT,  
Santa Fé, New Mexico, May 23, 1874.

The foregoing translation having been by me compared with the original document in Spanish and found correct, is hereby adopted as the official translation.

DAV. J. MILLER,  
Translator.

[Testimony of witnesses.]

*Francisco Montes Vigil.—The "Alameda."*

KIRBY BENEDICT, being by the surveyor-general sworn to testify in this case, on his oath declares:

Question. Have you any interest in this private land-claim?

Answer. I have none and never have had.

Question. How long have you lived in this Territory; have you held any official positions in this Territory; and, if so, what position?

Answer. I arrived from the State of Illinois at Santa Fé, as I now recollect, on the 26th day of August, 1853, and came with a commission as associate justice of the supreme court of New Mexico, and upon my arrival at Santa Fé took the official oath as such associate justice. I held that position until 1858, when I was appointed chief-justice of the supreme court, which position I held until the spring of 1866.

Question. Do you know the town or place called Alameda, in the county of Bernalillo; and, if so, how long have you known it?

Answer. In September, 1853, I proceeded as judge to the third judicial district to perform judicial duties therein. On my way to Albuquerque, the present county-seat of said county of Bernalillo, I passed through a place about seven miles, more or less, this side of Albuquerque called Alameda. There was a church and some houses near by, and ranches and settlements in the valley surrounding. I remained as judge in said district until in the fall of 1858, and my residence the greater portion of the time was with my family at Albuquerque. The place or town of Alameda or precinct, so called, was and is included in said county. I frequently passed through the place, often stopped there, and knew many of the inhabitants, and still know many of them. The last time I passed through said Alameda was in November, 1870.

Question. State whether said Alameda lies near any river; and, if so, what river, and how it is located with respect to the river.

Answer. It lies near to the Rio Grande, or Rio del Norte, as it is also sometimes called, on its eastern border. Between the portions close about the church and the flowing waters of the river there lies a strip of land, some of which is cultivated chiefly in vineyards. The distance from the church to the river is short.

Question. Do you know the Indian town of Sandia; and, if so, what distance is it from Alameda?

Answer. I know the said Indian town, and have often passed through it. It is on the main road from Alameda toward Santa Fé. I used to estimate the distance from Alameda to Sandia to be four miles, more or less.

Question. Do you know from your observation the nature of the ground east of the Alameda? If so, please state it.

Answer. The ground lying east of the church is a beautiful valley for

a short distance, when it changes to gently rising hills to the mesa. This mesa is dry plain land, and extends to the base of the Sandia Mountain, a distance of nine or ten miles.

Question. What has been your residence since your appointment as chief-justice for this Territory?

Answer. After my appointment as chief-justice the first judicial district, which included Santa Fé, fell to me in the performance of district-judge duties. I moved to Santa Fé, where my place of residence has continued to the present time.

KIRBY BENEDICT.

Sworn to and subscribed before me this June 19, 1871.

T. RUSH SPENCER,  
*Surveyor-General.*

DAVID J. MILLER, being in like manner sworn, on his oath declares

Question. Have you any interest in this private land-claim now in investigation?

Answer. I have none.

Question. How long have you resided in this Territory, and how long have you been translator in the office of the surveyor-general of New Mexico?

Answer. I have resided in New Mexico since 1854, and have been translator in that office with but little intermission since January, 1861.

Question. Have you had connection with the surveyor-general's office so as to make you familiar with the old documents in its archives and the signatures of the different governors of New Mexico?

Answer. I have been connected with the office as clerk or translator almost continuously since its organization, and am familiar with the archives and signatures of the governors, so far as much handling and reading of them could render me.

Question. Examine the original document of this claim of the Alameda, and say whether the signatures it bears correspond with those on other documents in the archives, and state whether in your opinion they are genuine.

Answer. I find on examining the document that I am familiar with the writing and the signature of the governor thereon, and believe the latter to be genuine, as also the signature of the governor's secretary. The old archives evidence that the governor there signing, the Marquis de la Peñuela, was such in the year 1710.

DAV. J. MILLER.

Sworn to and subscribed before me this June 19, 1871.

T. RUSH SPENCER,  
*Surveyor-General.*

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[Opinion.]

*Alameda grant.*

This claim for a grant of land is brought before me under the eighth article of the treaty of Guadalupe Hidalgo, and the eighth section of the act of Congress approved July 22, 1854, establishing this office.

It appears from the ancient record, which is genuine beyond all ques-

tion, that in the year 1710 the Marquis de la Peñuela, a gentleman of many names and titles, who was at that time governor and captain general of New Mexico, under the Crown of Spain, made a legal grant of the premises here claimed to one Francisco Montes Vigil, and that said Vigil was placed in judicial possession according to then existing forms of law.

The land has notoriously been occupied by large numbers of people in villages and on ranches for long years before the American occupation of the country, and their titles under the grant are, I believe, undisputed.

I therefore recommend to Congress this grant for confirmation to the legal representatives of said Vigil according to the boundaries set forth in the act of possession which is a part of this record. I believe it is not denied that the Rio del Norte ran in 1710 as claimed by the petitioner; and in consequence of a freshet, I am informed and verily believe that within the last few weeks it has occupied its ancient bed and that it now runs substantially as it did in 1710, leaving the village of Alameda on the west side of the stream, as it was at the date of the grant.

JAMES K. PROUDFIT,

*United States Surveyor-General.*

UNITED STATES SURVEYOR-GENERAL'S OFFICE,  
*Santa Fé, New Mexico, June 3, 1874.*

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*Authentication of transcript.*

SURVEYOR-GENERAL'S OFFICE,

*Santa Fé, New Mexico, June 6, 1874.*

The foregoing is a correct transcript of the papers on file in this office in private land-claim reported as No. 91, in the name of Francisco Montes Vigil, for the town of Alameda tract of land.

JAMES K. PROUDFIT,

*United States Surveyor-General.*

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